

**\*\*NOT FOR PRINTED PUBLICATION\*\***

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
SHERMAN DIVISION

GERALDYN DEATON,	§	
	§	
<i>Plaintiff,</i>	§	
	§	
V.	§	CASE NO. 4:13cv254
	§	Judge Clark/Judge Mazzant
THE KROGER COMPANY d/b/a	§	
The Kroger Company #460 and/or d/b/a	§	
Kroger #460 and KROGER TEXAS, LP	§	
d/b/a Kroger Texas, LP Store #460 and/or	§	
d/b/a Kroger,	§	
	§	
<i>Defendants.</i>	§	

**ORDER ADOPTING REPORT AND  
RECOMMENDATION OF THE UNITED STATES MAGISTRATE JUDGE**

Came on for consideration the report of the United States Magistrate Judge in this action, this matter having been heretofore referred to the United States Magistrate Judge pursuant to 28 U.S.C. § 636. On January 16, 2014, the report of the Magistrate Judge was entered containing proposed findings of fact and recommendations that Defendants' Partial Motion for Summary Judgment [Doc. #12] be granted. On January 29, 2014, Plaintiff filed Plaintiff's Objections to Report and Recommendation of the Magistrate Judge [Doc. #15]. In the pleading, Plaintiff indicates that Plaintiff does not object to the explicit findings and conclusions in the report and recommendation; rather, Plaintiff requests entry of the agreed order submitted with Plaintiff's pleading.

Having received the report of the United States Magistrate Judge, and noting Plaintiff's request for entry of the agreed order, this court is of the opinion that the findings and conclusions

of the Magistrate Judge are correct and adopts the Magistrate Judge's report as the findings and conclusions of the court.

It is, therefore, **ORDERED** that Defendants' Partial Motion for Summary Judgment [Doc. #12] is **GRANTED**.

It is further **ORDERED** that:

- (1) Defendants' Motion for Partial Summary Judgment on Plaintiff's general negligence claim (negligent-activity claim) is **GRANTED**;
- (2) Plaintiff take nothing of or from Defendants in connection with Plaintiff's claim for general negligence (negligent-activity claim);
- (3) Plaintiff's general negligence (negligent-activity) claim against Defendants is dismissed with prejudice;
- (4) Plaintiff's rights, claims and cause of action in connection with Plaintiff's premises liability claim against Defendants remain open and pending; and
- (5) All relief not granted herein is **DENIED**.

So **ORDERED** and **SIGNED** this **21** day of **March, 2014**.



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Ron Clark  
Ron Clark, United States District Judge